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ADMITTED NY

September 14, 2023

**BY ECF**

The Honorable LaShann DeArcy Hall  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *United States v. Jordan, et al.*, 20-CR-305 (S-2)(LDH)

Your Honor:

We submit this letter in response to the government's supplement to its motions *in limine*, dated August 25, 2023, wherein it discusses so-called evidence of witness intimidation. Notably, the text communications are not from Mr. Jordan. They are between the witness and the witness's associates. This has two implications.

First, they are hearsay and thus cannot be admitted. *See United States v. Cummings*, 858 F.3d 763, 766 (2d Cir. 2017).

Second, the one case the government relies upon, *Breazil v. Artis*, 2015 U.S. Dist. LEXIS 172939, (E.D.N.Y. Dec. 30, 2015), to argue the relevance of the texts is entirely distinguishable. In *Breazil*, the court analyzed statements of an alleged intermediary who made the threat on behalf of an offender. *Id.* at \*20 ("There was, for example, no logical conclusion as to at whose behest Squirrel was acting other than petitioner; there is no reason to believe that Squirrel was just a gratuitous intermeddler. Intimidation is rarely carried out face to face, especially when the intimidator is in custody, and even the agents of the intimidator rarely expressly state that they are agent acting on the intimidator's behalf."). Here, the government does not claim the witness's associates passed along any threat. So, the government's letter adds nothing to its position.

Respectfully,

/s/Michael Hueston  
Mark Demarco  
John Diaz

cc: Counsel of Record